

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Anthony Pierce And Alicia Pierce**

Case No. 10-80697

Chapter 13

Social Security No. xxx-xx-4193 and xxx-xx-5310  
Address: 3712 Appling Way, Durham, NC 27703

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Debtors

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**MOTION TO MODIFY PLAN**

**NOW COME the Debtors**, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

1. This case was filed on April 22, 2010, with the Chapter 13 plan being subsequently confirmed on November 30, 2010.
2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:  
  
From: \$2,988.00 per month.  
  
To: \$2,988.00 per month through June 2011, followed thereafter by \$2,950.00 per month, starting in July 2011.
3. The changed circumstances that justify the proposed modification are as follows:
  - a. The Male Debtor is unemployed.
  - b. The Female Debtor is disabled due to multiple sclerosis. The costs of her medication and treatment have risen.
4. An Amended Schedule I for the Debtors is attached hereto and is incorporated hereto by reference.
5. An Amended Schedule J for the Debtors is attached hereto and is incorporated by reference.
6. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
  - a. Change in length of plan.
  - b. Filed claims different from schedules.
  - c. Modification of monthly disbursement to Capital One Auto Finance from \$624.00 a

month to \$495.44.

7. The Debtors further request that their payment due date be changed to the last business day of the month, as the Female Debtor receives her disability payments on the 4<sup>th</sup> Wednesday.

**Appended Application for an Additional Attorney Fee**

8. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify and \$32.50 for costs of postage in serving this Motion. (65 creditors @ \$0.50 each.)

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: June 15, 2011

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward Boltz  
Edward Boltz  
North Carolina State Bar No.: 23003  
6616-203 Six Forks Road  
Raleigh, N.C. 27615  
(919) 847-9750

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Debtors

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**CERTIFICATE OF SERVICE**

I, Dawn De Frange, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on June 15, 2011, I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II  
Chapter 13 Trustee  
Michael West  
U.S. Bankruptcy Administrator

Anthony Pierce And Alicia Pierce  
3712 Appling Way,  
Durham, NC 27703

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Dawn De Frange  
Dawn De Frange

In re **Anthony Wayne Pierce**  
**Alicia Artrell Pierce**Case No. **10-80697**

Debtor(s)

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
<b>Married</b>	RELATIONSHIP(S): <b>Daughter</b> <b>Son</b>	AGE(S): <b>4</b> <b>5</b>
Employment:	DEBTOR	SPOUSE
Occupation	<b>Unemployed</b>	<b>Disabled</b>
Name of Employer		
How long employed	<b>1 Year</b>	<b>2002</b>
Address of Employer		

INCOME: (Estimate of average or projected monthly income at time case filed)

- Monthly gross wages, salary, and commissions (Prorate if not paid monthly)
- Estimate monthly overtime

3. SUBTOTAL

4. LESS PAYROLL DEDUCTIONS

- Payroll taxes and social security
- Insurance
- Union dues
- Other (Specify): \_\_\_\_\_

5. SUBTOTAL OF PAYROLL DEDUCTIONS

6. TOTAL NET MONTHLY TAKE HOME PAY

- Regular income from operation of business or profession or farm (Attach detailed statement)
- Income from real property
- Interest and dividends
- Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above
- Social security or government assistance (Specify): **See Detailed Income Attachment**
- Pension or retirement income
- Other monthly income (Specify): \_\_\_\_\_

14. SUBTOTAL OF LINES 7 THROUGH 13

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

DEBTOR	SPOUSE
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>475.00</b>
\$ <b>2,192.67</b>	\$ <b>2,639.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>2,192.67</b>	\$ <b>3,114.00</b>
\$ <b>2,192.67</b>	\$ <b>3,114.00</b>
\$ <b>5,306.67</b>	

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

**None Anticipated**

In re **Anthony Wayne Pierce**  
**Alicia Artrell Pierce**Case No. **10-80697**

Debtor(s)

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**  
**Detailed Income Attachment****Social Security or other government assistance:**

<b>Social Security</b>	\$ <b>0.00</b>	\$ <b>1,729.00</b>
<b>Social Security (Son)</b>	\$ <b>0.00</b>	\$ <b>455.00</b>
<b>Social Security (Daughter)</b>	\$ <b>0.00</b>	\$ <b>455.00</b>
<b>Unemployment</b>	\$ <b>2,192.67</b>	\$ <b>0.00</b>
<b>Total Social Security or other government assistance</b>	\$ <b>2,192.67</b>	\$ <b>2,639.00</b>

In re

Case No. **10-80697**

Debtor(s)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

- |  |                       |    |          |
|--|-----------------------|----|----------|
| 1. Rent or home mortgage payment (include lot rented for mobile home)  |                       | \$ | 0.00     |
| a. Are real estate taxes included?   | Yes <u>X</u> No _____ |    |          |
| b. Is property insurance included?   | Yes <u>X</u> No _____ |    |          |
| 2. Utilities:  |                       | \$ | 375.00   |
| a. Electricity and heating fuel  |                       | \$ | 68.00    |
| b. Water and sewer   |                       | \$ | 30.00    |
| c. Telephone   |                       | \$ | 369.00   |
| d. Other <u>See Detailed Expense Attachment</u>  |                       | \$ | 60.00    |
| 3. Home maintenance (repairs and upkeep)   |                       | \$ | 600.00   |
| 4. Food  |                       | \$ | 70.00    |
| 5. Clothing  |                       | \$ | 0.00     |
| 6. Laundry and dry cleaning  |                       | \$ | 0.00     |
| 7. Medical and dental expenses   |                       | \$ | 150.00   |
| 8. Transportation (not including car payments)   |                       | \$ | 50.00    |
| 9. Recreation, clubs and entertainment, newspapers, magazines, etc.  |                       | \$ | 0.00     |
| 10. Charitable contributions   |                       | \$ | 0.00     |
| 11. Insurance (not deducted from wages or included in home mortgage payments)  |                       | \$ | 0.00     |
| a. Homeowner's or renter's   |                       | \$ | 65.00    |
| b. Life  |                       | \$ | 170.00   |
| c. Health  |                       | \$ | 185.00   |
| d. Auto  |                       | \$ | 0.00     |
| e. Other _____   |                       | \$ | 0.00     |
| 12. Taxes (not deducted from wages or included in home mortgage payments)<br>(Specify) <u>Personal Property Taxes</u>  |                       | \$ | 27.00    |
| 13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)   |                       | \$ | 0.00     |
| a. Auto  |                       | \$ | 0.00     |
| b. Other _____   |                       | \$ | 0.00     |
| c. Other _____   |                       | \$ | 0.00     |
| 14. Alimony, maintenance, and support paid to others   |                       | \$ | 0.00     |
| 15. Payments for support of additional dependents not living at your home  |                       | \$ | 0.00     |
| 16. Regular expenses from operation of business, profession, or farm (attach detailed statement)   |                       | \$ | 0.00     |
| 17. Other <u>See Detailed Expense Attachment</u>   |                       | \$ | 3,087.67 |
| 18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.) |                       | \$ | 5,306.67 |
| 19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:<br><u>None Anticipated</u>      |                       |    |          |
| 20. STATEMENT OF MONTHLY NET INCOME  |                       |    |          |
| a. Average monthly income from Line 15 of Schedule I   |                       | \$ | 5,306.67 |
| b. Average monthly expenses from Line 18 above   |                       | \$ | 0.00     |
| c. Monthly net income (a. minus b.)  |                       | \$ |          |

In re **Anthony Wayne Pierce**  
**Alicia Artrell Pierce**Case No. **10-80697**

Debtor(s)

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED**  
**Detailed Expense Attachment****Other Utility Expenditures:**

Cell Phone	\$	175.00
Cable	\$	115.00
Internet	\$	64.00
Homeowner's Association Dues	\$	15.00
<b>Total Other Utility Expenditures</b>	<b>\$</b>	<b>369.00</b>

**Other Expenditures:**

Chapter 13 Monthly Payment	\$	2,950.00
Personal Grooming	\$	37.67
Emergencies/Misc	\$	100.00
<b>Total Other Expenditures</b>	<b>\$</b>	<b>3,087.67</b>

# **CH. 13 PLAN - DEBTS SHEET** (MIDDLE DISTRICT - STEP PLAN)

Date: 4/20/11

Lastname-SS#: Pierce-4193

## **RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN**

Retain	Creditor Name	Sch D #	Description of Collateral

## **SURRENDER COLLATERAL**

Creditor Name	Description of Collateral

## **ARREARAGE CLAIMS ON RETAINED COLLATERAL**

Retain	Creditor Name	Sch D #	Arrearage Amount
	Wells Fargo (Pre-Petition)		\$32,380
	Wells Fargo (Post-Petition)		\$1,663

## **REJECTED EXECUTORY CONTRACTS/LEASES**

Creditor Name	Description of Collateral

## **LTD - DOT on PRINCIPAL RESIDENCE / OTHER REAL PROPERTY**

Retain	Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	Wells Fargo		\$1,663	n/a	n/a	\$1,663	Pre-Petition
				n/a	n/a		
				n/a	n/a		

## **STD - SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)**

Retain	Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
				7.00			
				7.00			
				7.00			
				7.00			

## **STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)**

Retain	Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	Capital One Auto		\$23,391	5.25	\$234	\$495	04-BMW
				7.00			
				7.00			
				7.00			

## **ATTORNEY FEES (Unpaid Part)**

Law Offices of John T. Orcutt, P.C. \$250

## **SECURED TAXES**

IRS Tax Liens  
Real Property Taxes on Retained Realty

## **UNSECURED PRIORITY DEBTS**

IRS Taxes  
State Taxes  
Personal Property Taxes  
Alimony or Child Support Arrearage

## **COSIGN PROTECT (Pay 100%)**

All 'Co-Sign Protect Debts (See\*\*\*)

## **GENERAL NON-PRIORITY UNSECURED**

DMI = None(\$0)

## **Other Miscellaneous Provisions**

## **PROPOSED CHAPTER 13 PLAN**

\$ 2950 /month for 53 months, then

\$ N/A /month for N/A months.\*\*

## **Definitions**

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

\* = Minimum of DMI x ACP, minus all co-sign protect debt.

\*\* = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

\*\*\* Co-sign protect on all debts so designated on filed schedules D, E and F

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